

JAMES CHARLES DAVIS §  
v. § CIVIL ACTION NO. 6:08cv110  
HENDERSON COUNTY SHERIFF'S §  
DEPARTMENT, ET AL.

The Plaintiff James Davis, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Davis filed objections to the Magistrate Judge's Report on September 16, 2008. In his objections, he says that he wants to continue and proceed to trial, but does not challenge or dispute any of the Magistrate Judge's proposed findings of fact or conclusions of law. As the Magistrate

Judge explained, this civil action cannot continue or proceed to trial until Davis shows that the underlying conviction, the validity of which could be undermined by a finding in Davis' favor, has been set aside, overturned, expunged by executive order, or called into question through the issuance of a federal writ of habeas corpus. Davis has not shown that the Magistrate Judge was in error and his objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings and documents in this case, including the plaintiff's complaint and subsequent letters, the answers of the parties, the Report of the Magistrate Judge, the Plaintiff's objections thereto, and all other pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice as frivolous, with refiling conditioned upon a showing by the Plaintiff that his conviction has been overturned, expunged by executive order, declared invalid in a state collateral proceeding, or called into question through the issuance of a federal writ of habeas corpus. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

**So ORDERED and SIGNED this 24th day of September, 2008.**

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**